

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0313
Sales and Use Tax
For the Years 1998-2001

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ISSUE

I. Sales and Use Tax-Calling Cards

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-4-13.

The taxpayer protests the imposition of sales tax on calling cards.

STATEMENT OF FACTS

The taxpayer is an Indiana citizen doing business as an oriental grocery store. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional sales tax, interest, and penalty for the years 1998-2001. The taxpayer protested the imposition of sales tax and a hearing was held. This Letter of Findings results.

I. Sales and Use Tax-Calling Cards

DISCUSSION

The taxpayer sold prepaid phone cards. IC 6-2.5-4-13 imposes sales tax on prepaid telephone calling cards. The taxpayer protests this assessment of sales tax on the calling cards for two reasons. First the taxpayer argues that many of the cards were voice over internet calling cards and not taxable as a typical calling card. Secondly, the taxpayer argues that the tax on the calling cards was computed incorrectly.

The taxpayer sold voice over internet calling cards for specific dollar amounts. These cards cost less than the typical phone calling card. The taxpayer contends that these cards were not taxable calling cards. The taxpayer errs in this conclusion. Customers purchased a card so they could use telephones to call persons in other locations for a predetermined number of minutes. This amounts to a telephone calling card subject to the Indiana sales tax.

The taxpayer also protests the method of calculating the tax due on the calling cards. The auditor calculated the sales tax due by accumulating the cost of the phone cards purchased by the taxpayer. The retail value was determined by multiplying the number of cards bought by the retail price of each card group. The wholesale price was divided into the retail value to determine the mark up of the cards. Where information was not available and only the wholesale

value was known, the average markup was used to calculate the retail price for sales tax purposes.

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). The taxpayer did not provide adequate verifiable documentation to refute this computation. Therefore, the sales tax due on the calling cards was computed in an appropriate manner.

FINDING

The taxpayer's protest is denied.